

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33877

ILLINOIS CENTRAL RAILROAD COMPANY—CONSTRUCTION AND OPERATION
EXEMPTION—IN EAST BATON ROUGE PARISH, LA

Decided: January 23, 2002

By decision served on October 25, 2001,¹ we conditionally exempted Illinois Central Railroad Company (IC) under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate a line of railroad approximately 3.2 miles in length, in East Baton Rouge Parish, LA. The line would connect IC's Maryland Industrial Lead with the Baton Rouge Polyolefins plant of ExxonMobil Chemical Company. In our decision, we stated that, upon completion of the environmental review process, we would issue a final decision addressing the environmental impacts and, if appropriate, make the exemption effective at that time.

An environmental assessment (EA) prepared by our Section of Environmental Analysis (SEA) was served on July 20, 2001. In the EA, SEA preliminarily concluded that, based on the information provided from all sources as of the date of the EA, the construction and operation of IC's rail line would not significantly affect the quality of the human environment, if the mitigation measures set forth in Section 5.0 of the EA were imposed. Comments to the EA were due on August 20, 2001.

Several comments to the EA were submitted.² After considering the comments, in its post environmental assessment (Post EA), SEA concluded that, based on its independent analysis of all information available, the proposed rail line construction and operation would not result in any significant environmental impacts if the mitigation measures recommended in the EA, and set forth in final form in the Post EA, were imposed and implemented. SEA further determined

¹ Notice was published in the Federal Register on October 25, 2001 (66 FR 54059).

² Commenters include the United States Department of the Interior, Fish and Wildlife Service; Louisiana Governor M.J. "Mike" Foster, Jr.; The Louisiana Department of Environmental Quality; Troutman Sanders LLP on behalf of The Kansas City Southern Railway Company; Ms. Florence T. Robinson; Ms. Gwendolyn Robinson; Mrs. Augustine C. Warner; and Mr. David E. Grimes.

that no new analysis or changes to the conclusions in the EA were required, and that there was no need to prepare a full environmental impact statement.

We agree with SEA and will adopt the environmental mitigation measures recommended by SEA and, as set forth in the Appendix to this decision, impose them as a condition to the exemption. In addition, we have been advised by the Louisiana Department of Transportation and Development (DOTD) and IC, in letters dated January 9 and 17, 2002, that IC and DOTD have reached an agreement regarding operation of the proposed at-grade crossing where IC's rail line would cross U.S. Highway 61 in East Baton Rouge Parish. By letter dated January 22, 2002, IC has advised us that it does not object to our making the terms of the agreement a condition to the issuance of the exemption authority to construct the line. Accordingly, we will include an additional mitigation measure (Number 10), which is also set forth in the Appendix, reflecting the agreement between IC and DOTD. We will allow the exemption, as conditioned, to become effective 30 days from the date of service of this decision.

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. We adopt the mitigation measures set forth in the Appendix to this decision, and we impose them as a condition to the exemption granted in this proceeding.
2. The exemption conditionally approved in the decision served on October 25, 2001, is effective on the effective date of this decision, subject to the condition that IC comply with the mitigation measures adopted in this decision with respect to the construction, operation and maintenance of the involved rail line.
3. This decision is effective 30 days from the date of service.

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams
Secretary

APPENDIX

ENVIRONMENTAL MITIGATION MEASURES:

Soils

1. IC shall re-vegetate all graded areas to provide slope stability, reduce erosion and provide replacement of some of the habitat value lost due to construction activities.

Air Quality

2. IC shall implement dust control measures during all phases of project construction. Recommended measures include:

- a. Use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land.
- b. Application of asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces that can give rise to airborne dust.
- c. Open-bodied trucks transporting materials likely to give rise to airborne dust covered at all times while in motion.
- d. The prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water or other means.

Biology

3. IC shall coordinate with the U.S. Army Corps of Engineers, LA field office, to obtain all required permits for disturbance of Waters of the United States.
4. IC shall re-vegetate all graded areas to provide slope stability and replace some of the habitat value lost due to construction activities. (Same mitigation measure as listed under Soils).
5. Because birds protected under the Federal Migratory Bird Treaty Act may nest in the project area, all clearing activities shall be planned to avoid the nesting season (clearing activities shall occur between August 1 and December 31). If it is not possible to avoid the nesting season, IC shall conduct nest surveys prior to construction to determine if nesting is occurring within or adjacent to the construction area. If active nests are found, IC shall postpone activities within 250 feet of the nest until the young have fledged.

Cultural Resources

6. Should any previously undiscovered historic or prehistoric resources be found during construction, IC shall stop work, in accordance with the regulation implementing the National Historic Preservation Act at 36 CFR 800, until such time that the resource can be evaluated by a qualified archaeologist and appropriate mitigative action taken as determined necessary by SEA and the Louisiana State Historic Preservation Officer.

Hazardous Materials/Waste Sites

7. In order to ensure the safety of construction workers during the construction period, IC shall implement one of the following measures:

- a. IC shall hire a qualified environmental professional to prepare a site-specific Health and Safety Plan (HSP) to ensure construction worker health and safety during the period that construction workers may have direct or indirect contact with site soils. The HSP shall include procedures for air monitoring, action levels, and procedures to protect worker health and safety if potentially hazardous concentrations of contaminants are encountered during construction.
- b. IC shall perform a soil investigation along the alignment to determine whether soils that would be disturbed during construction contain concentrations of hazardous materials that could affect construction worker health and safety. The investigation shall be performed by a qualified environmental professional. A minimum of eight soil samples from soils to be disturbed during construction shall be collected and analyzed for total extractable hydrocarbons (TEH), volatile organic compounds (VOCs), and semi-volatile organic compounds (SVOCs). Data analysis shall be conducted in accordance with US EPA document *SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Third Edition*. Analytical data shall be provided to the construction contractor(s) for incorporation in their site health and safety and/or hazard communication plans.

8. IC shall test fill materials to be imported from areas where contamination is known or suspected to be present for contaminants of concern to determine whether these materials contain concentrations of hazardous materials that could affect construction worker health and safety. The testing shall be performed by a qualified environmental professional. Analytical data shall be provided to construction contractor(s) for incorporation in their site health and safety and/or hazard communication plans.

9. IC shall coordinate construction plans with the East Baton Rouge Parish Environmental Section to ensure that construction of the proposed project would not affect future installation of the methane gas dispersal/leachate collection systems at the Devil's Swamp Landfill.

Transportation

10. IC shall adhere to the terms of its agreement with the Louisiana Department of Transportation and Development (DOTD) with regard to DOTD's permit to cross Highway 61, at-grade.